

INTRADPARTMENTAL CORRESPONDENCE

August 3, 2020
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TO: Chief of Police

FROM: Chair, Use of Force Review Board

SUBJECT: MINORITY OPINION – USE OF FORCE REVIEW BOARD
RECOMMENDATIONS – FORCE INVESTIGATION DIVISION NO. F049-19

On July 20, 2020, a Use of Force Review Board (UOFRB) was convened to review and recommend administrative findings for Force Investigation Division (FID) No. F049-19. The UOFRB's deliberations resulted in a minority opinion with regards to the tactics findings for:

- Police Officer II John Romines, Serial No. 34946, Gang and Narcotics Division, Gang Field Unit.

The UOFRB was comprised of the following members:

Chair:	Assistant Chief Beatrice Girmala
Office of Special Operations:	Assistant Chief Horace Frank
Personnel and Training Bureau:	Commander Ruby Flores
Bureau:	Commander Donald Graham
Peer Member:	Police Officer II Michael Burtner

The minority opines that the planning utilized by Officer Romines substantially deviated without justification from the Los Angeles Police Department's Use of Force-Tactics Directive No. 16, entitled Tactical De-escalation Techniques, as well as the principle of Tactical Planning established by the State of California Commission on Peace Officer Standards and Training (POST).

On the tactical de-escalation technique of planning, the Use of Force-Tactics Directive No. 16 states the following:

Officers should attempt to arrive at scene with a coordinated approach based upon initial information and any pre-existing knowledge of the suspect(s) or the involved parties. The dynamic nature of most incidents will require tactical plans to be flexible, and officers need to adapt their plan(s) as additional information or factors become known to the officer(s).¹

¹ Los Angeles Police Department, Use of Force-Tactics Directive No. 16, Tactical De-Escalation Techniques, October 2016.

On the principle of Tactical Planning, the State of California Commission on Peace Officer Standards and Training states the following:

Tactical Planning

Officers must approach every contact with officer safety in mind. Complacency, overconfidence, poor planning, or inappropriate positioning can leave officers vulnerable to attack.²

According to Officer Romines, he has been assigned to the Gang Field Unit (GFU) for approximately thirteen years and believed that operational plans were introduced to the unit approximately nine or ten years ago. By his own account, Officer Romines has been familiar with operational plans for at least nine years. In this case, Officer Romines was the GFU Investigating Officer (IO) and was tasked with the completion of the operational plan. According to Officer Romines, the operational plan consists of the officers utilized, their serial numbers, unit designations and duties. Based on Officer Romines' years of expertise, the resultant work product should have reflected the requisite information and Department standards to ensure the safety of all involved in the operation.

The purpose of such operational plan is to ensure safety and coordination. The operational plan completed by Officer Romines fell woefully short in many regards. The developed operational plan was inadequate with regard to the number of Department personnel assigned to the operation, lacked diagrams of the location resulting in poor situational awareness and did not contain notations of approval from his chain of command.

Use of Force-Tactics Directive No. 10.3, Undercover and Surveillance Operations states, written operational plans shall at a minimum include, "Personnel assigned to the operation (include their roles and duties – communications, less lethal, arrest team, etc.)."³ In this case, the operational plan does not list the duties nor roles of each officer. While it is understandable that the duties of the officers conducting surveillance are subject to change based on the suspect's actions and the evolving situation, in this case, officers were not tasked with initial duties. The operational plan outlines only a primary force option for each officer whether it be a shotgun, TASER or 40mm Less-Lethal Launcher (LLL). At least preliminarily, the operational plan does not designate duties such as Surveillance Personnel and Undercover (UC) Support. Furthermore, the operational plan states that "during the surveillance GFU personnel may be deployed on foot as UC Operators to aid in the identification of the intended target/suspect or to gather intel." The operational plan however does not pre-designate UC operators nor close cover officers to carry out that component of the plan.

There was no designation of a communications officer in this operational plan as required by the Use of Force-Tactics Directive 10.3, Undercover and Surveillance Operations. The operational plan uses generic terminology to state that, "the GFU supervisor or his/her designee at the scene

² State of California Commission on Peace Officer Standards and Training, Learning Domain 21

³ Los Angeles Police Department, Use of Force-Tactics Directive 10.3, Undercover and Surveillance Operations, March 2019.

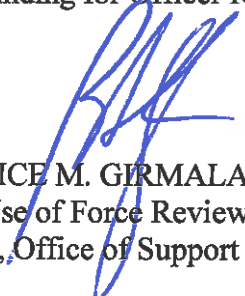
will handle communications with uniform personnel.” Having a pre-designated communications officer would alleviate confusion and avoid delays in broadcasting relevant information not only amongst GFU personnel, but also to responding units within the respective geographic area.

From the onset of this incident, uniform personnel were requested and assigned as the chase/takedown unit. Additionally, Officer Romines stated, “We were going to have one of those A cars as a chase car. So I knew that was going to be part of the gameplan.” However, the operational plan generically states that “if needed, uniform officers will be requested to assist with taking the suspect into custody.” The written operational plan for this incident does not account for the resources already deployed as part of this incident.

According to Officer Romines, Plan A was to locate and arrest the suspect, while Plan B was to contain the suspect within his residence and request Metropolitan Division, Special Weapons and Tactics (SWAT) to serve a search warrant. Officer Romines had knowledge that Operations-Valley Bureau (OVV) Homicide detectives were in the process of completing a search warrant. Having that knowledge, Officer Romines did not advise Metropolitan Division of the possibility and anticipated potential utilization of SWAT at a later time.

In addition, the operational plan does not list Plan B as an option. The operational plan states that the objective of the operation was to conduct “surveillance to locate and arrest” the suspect. Furthermore, having knowledge that Plan B was an option, Officer Romines had not given any consideration as to how GFU personnel would establish containment on the suspect’s residence. Officer Romines stated that Detective Lopez identified the suspect inside of the suspect’s residence and at that time, Officer Romines gave consideration to contacting SWAT. However, prior to contacting SWAT, Officer Romines needed “to get eyes” on the location and he did not have a plan to do so.

The deficient planning by Officer Romines caused role confusion, fractured communications, insufficiency in planning to incorporate UC Support (specifically uniform chase/take down) and lacked an alternative plan for which the need was clearly anticipated at the beginning of the operation. Therefore, the minority opines that Officer Romines substantially deviated without justification from established Department procedures and training and recommends that the tactics finding for Officer Romines be classified as Administrative Disapproval.



BEATRICE M. GIRMALA, Assistant Chief
Chair, Use of Force Review Board
Director, Office of Support Services

Attachment

**Gang and Narcotics Division
Gang Field Unit (GFU)
Operational Plan**

*APPROX 0530 Brixler w/
DET DINLOCKER
3rd FL VNY5*

*0510 HONARD TO
VNY5*

Date: 10/16/2019

Time: 0600hrs.

GFU Case I/O: Romines Type of Activity: Surveillance/Arrest
 Briefing Location: Van Nuys div
 Radio Freq.: 54 Type of Crime: 187 PC/Robbery
 Investigating I/O: Det. Dinlocker Contact #: (818) 374-0040 Division: Van Nuys
 DR # / Investigative Reason: DR#1909-18317
 Additional Location Info.: Security Bars Dogs Children Elderly/Handicapped Phone #:
 Nearest Hospital: Holy Cross - 15301 Rinaldi St Phone #: (818) 365-8051 RA Phone #: 911

SUSPECT(s) INFORMATION

*SGT MOJICA
ADV TO HONARD → 4A19
4A37*

*Prior to arriving at loc
I CALLED PARTNER AT LOC
AND BUDED of our RESPONSE*

#1 Name: <u>Frazier, Lazzeri</u>	#2 Name: <u></u>
Physical: <u>M/Blk 509 145 10/24/97 (22)</u>	Physical: <u>*() Brixler on Comm.</u>
Address: <u>5461 Kester Ave</u>	Address: <u>9AS VELA 0746</u>
Gang Affiliation: <u>none</u>	Gang Affiliation: <u></u>
AKA/Moniker: <u>none</u>	AKA/Moniker: <u>to Brixler's Airtel</u>
Vehicle: <u>none</u>	Vehicle: <u>APPROX 0950</u>
Criminal Record: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Criminal Record: Yes <input type="checkbox"/> No <input type="checkbox"/>
Criminal History: <u>422 Pc, Battery</u>	Criminal History: <u></u>



*LOPEZ 095 SUSP
IN APT WINDOW
LOPEZ CONFIRMS
SUSP IN APT WINDOW
LOPEZ 095 SUSP BUT
FURTHER PROVIDED DISE
SUSP WALKED W/B
WIFE SIGNATURE*

TARGET LOCATION(s)

Location #1: 5461 Kester Ave Sherman Oaks
 Location #2: Any other location(s) developed during operation.
 Location #3:

*LOPEZ 095 SUSP
F RECORD CASE
LOPEZ ADV SUSP HAD
A Good Reason
S/B = HONARD W/AT*

NOTIFICATIONS: GND Supervisor Notified: DIII K. Oderinlo

*Somson Like shot DIII
the 2nd Person Gunshot*

LAPD Division Notified? Yes No Division: Van Nuys Person Contacted: W/C Sgt Mojica Date: 10/16/19 Time: 0600hrs.

Outside Agency Notified? Yes No Agency: Person Contacted: Date: Time: Jrs.

LA CLEAR/NIN? Yes No Person Contacted: Mahmaz Date: 10/16/19 Time: 0610hrs.

Inc# 0716

Copy to L.F. Bixler Yes No Copy to Yes No

*AT LOC APPROX
0630*

***Gang and Narcotics Division
Gang Field Unit (GFU)
Operational Plan***

**Gang and Narcotics Division
Gang Field Unit (GFU)
Operational Plan**

ASSIGNED PERSONNEL

Unit	Name	Serial No.	Duties	Unit	Name	Serial No.	Duties
5K521	D2 Rich Jaramillo	#35691	Surv	..			
5K523	D2 Marc Phillips	#26412	SUP	..	STARTED 0600		..
5K525	D1 Tony Lopez	#35588	40mm	..	STARTED 0600		..
5K526	D1 Mike Whitney	#37517	5K526-527 Taser	..	STARTED 0600		
5K527	D1 Tina Rios	#31380	Shotgun
5K528	D1 Joel Ruiz	#35739	Taser	..	STARTED 0600		..
5K529	D1 Pat Hoffman	#38851	Duty	..			
5K532	P2 JD Romines	#34946	Taser	..	STARTED 0600		
5K533	D1 Pete Montejano	#32784	Shotgun				
..							
..							
..							

CRIME SUMMARY

On October 14th, 2019 at 1225 hours, Van Nuys area patrol officers responded to an "Ambulance shooting just occurred" radio call at 14640 Burbank Blvd. Upon arrival, officers discovered a male victim lying on the sidewalk suffering from several gun shot wounds. VanNuys detectives responded to the scene and took over the investigation.

Crime summary: The suspect (Lazzeri James Frazier) approached the victim and demanded money. The victim was on the phone at time and his girlfriend overheard the suspect demand money from the victim. The victim told his girlfriend a male black was robbing him and the phone disconnected. The suspect fired and struck the victim several times with a .380 semi auto handgun and fled the location with the victim's property. The victim was pronounced deceased at the scene by LAFD.

Detectives were able to locate several surveillance cameras in the area and observed a male black (suspect) running from the scene of the homicide, at the same time the victim's phone call disconnected. Detectives noted the suspect was wearing a red T Shirt w/ a black Panther on the front, a yellow back pack and black pants. Detectives uploaded the image from the CCTV footage of the suspect to facial recognition, which returned to Lazzeri Frazier.

On October 14th at 2245 hours, a robbery occurred at 14900 Burbank and the suspect matched the exact description, physical and clothing worn, of the suspect running from the homicide scene. The suspect entered the location holding a blue steel handgun and demanded money. The suspect fled the location with US currency. The officers investigating the robbery reviewed the surveillance footage of the robbery and recognized the suspect as Frazier. Officers had prior contact with Frazier and knew his residential address.

On October 15th the suspect threatened to slash a neighbor's tires with a knife, the victim notified the police. The suspect is possible 5150. The handgun is still outstanding and a roll back search warrant will be conducted after Frazier's arrest.

OPERATIONAL PLAN

The objective of this operation is to conduct a surveillance to locate and arrest Frazier for robbery and 187 PC.

Also, during the surveillance GFU personnel may be deployed on foot as UC Operators to aid in the identification of the intended target/suspect or to gather intel.

Once the suspect(s) is positively identified, the GFU supervisor in charge or his/her designee of the operation will determine how and when the suspect will be taken into custody based on tactical considerations. If needed, uniform

***Gang and Narcotics Division
Gang Field Unit (GFU)
Operational Plan***

officers will be requested to assist with taking the suspect into custody. GFU personnel will maintain surveillance of the suspect(s) until uniform personnel arrive and take over the following and subsequent felony stop. The GFU supervisor or his/her designee at the scene will handle communications with uniform personnel. Note: If requested by I/O, GFU will return to suspect's residence and secure location pending the arrival of a signed Search Warrant.

Commanding Officer's Note:

Based on the overall concept of the surveillance, it would compromise the investigation to conduct their surveillance if they are wearing body armor. Therefore, I am exempting them from wearing body armor during the surveillance portion of this investigation. However, it is my expectation that should the focus of the operation change to the apprehension of the suspect, that all involved personnel in the apprehension of the suspect will don their protective armor.

§ 87(2)(b) POLICE - TRAINING - 4/25/2019 - CIVIL SERVICE REASONABLE STANDARDS

The old Force Department Policy allows that amount of force that is "subjectively reasonable" to:
(1) Effect an arrest or detention • Prevent escape • Overcome resistance • Defend themselves • Defend others

Deadly Force:

- Protect themselves or others from what is reasonably believed to be an imminent threat of death or serious bodily injury; or
- Prevent a crime where the subject's actions pose a risk of imminent jeopardy of death or serious bodily injury; or
- Prevent the escape of a violent fleeing felon when there is probable cause to believe the escape will pose a significant threat of death or serious bodily injury to the officer or others if apprehension is delayed. In the circumstances, officers shall, to the extent practical, avoid using deadly force that may be subject innocent by standers or innocents to possible death or injury.

Serious Bodily Injury (2017)(g) defined as:

A serious impairment of physical condition, including, but not limited to, loss of consciousness, concussion, bone fracture, protracted loss or impairment of function of any bodily member or organ, a wound requiring extensive suturing, and serious disfigurement.

Cover Fire and Warning Shots:

• Cover fire is defined as: "controlling and deliberate fire directed at a life-endangering threat where an officer reasonably believes the threat to his life or the lives of others is a substantial deadly force • Warning Shots: The intentional discharge of a firearm without, or intended to hit a person, so warn others that deadly force is imminent. Warning shots shall only be used in exceptional circumstances where it might reasonably be expected to avoid the need to use deadly force. Generally, warning shots shall be directed at a target or threat that poses the risk of injury to innocent persons, marked dangers and property damage.

Shooting at or From Moving Vehicles:

Firearms shall not be discharged at a moving vehicle unless a person in the vehicle is immediately threatening the officer or another person with deadly force by means other than the vehicle. The moving vehicle itself shall not presumptively constitute a threat to it justifies an officer's use of deadly force. An officer threatened by an oncoming vehicle shall move out of its path instead of discharging a firearm at it or any of its occupants. Firearms shall not be discharged from a moving vehicle, except in exigent circumstances and in the immediate defense of life.

Less Lethal Force Options (LAW ENFORCEMENT) are only permissible when an officer reasonably believes the suspect or subject is violently resisting arrest or poses an immediate threat of violence or physical harm. Less-lethal force options shall not be used for a suspect or subject who is passively resisting or merely failing to comply with commands. Verbal threats of violence or severe non-compliance by a suspect do not alone justify the use of Less-lethal force. An officer may use LAW ENFORCEMENT as a reasonable force option to control a suspect when the suspect poses an immediate threat to the safety of the officer or others. (Notes for all less lethal options: a verbal warning must be given when feasible.)

TASER (Code Item):

• Range 0-25 ft (green dot) • Optimal range 7-15 feet • Optimal Target Areas: Back or navel area for probes, forearm, outside of thigh, and muscle for drive-stun/stun-stun. Avoid using the stun feature on the head, face, throat, and groin. Whenever the probes make contact with the suspect's clothing or skin, they shall be examined by medical personnel (doctor or a nurse at a contract hospital or jail dispensary).

OC:

• Ideal range 3-12 feet. Medical treatment not required unless continued difficulty breathing or vision impairment has extended period.

Knocking (Code Item):

• No restriction but hit of weapon minimum recommended range is 5-15 feet. Primary target is suspect's head area or belt line, but officers may target the suspect's arms, hands, or legs when practicable. If the head is selected target, consider its location and what it is holding. The sock round may cause serious or fatal injuries if fired at the head, neck, spine, chest, groin or kidneys. Any person struck with a sock round shall be transported to a Department-approved facility for medical treatment prior to booking.

Shotgun Less Lethal Launcher (Code Item 40):

• Deployment range is 5-110 ft. Primary target area is the navel area or belt line, but officers may target the suspect's arms, hands, or legs when practicable. If the head is the selected target, consider its location and what it is holding. Officers shall not target the head, neck, spine, chest, groin, or kidneys. If a person is struck by a round they shall be transported to a Department approved facility for medical treatment prior to booking.

Other Ammunition

- 45 Federal Premium 230 grain MST, (P4315T2) • 40
- 270 Federal Premium 55 grain bonded soft point (14733T1)
- 510g Federal Premium Buffalo King HP 2 1/2 oz. slug (Beckell)
- 30-Speer 135 grain • P Gold Dot Hollow Point (57921)
- 40 - Winchester Ranger 180 grain • 40
- 40mm-Speer G2 Gold Dot 11GR 147 grain (54220)
- 356-Black Hills 30 grain (Optimum) 155 Water Resistant
- 09-Black-Ted 12 gauge Magnum (Beckell) (713000)
- 300-Speer Lawman 1 ML 85 grain (53016)
- 40 - Speer Gold Dot 117, 96# 180 grain (53040)

Updated 03-23-19